Reference Number:	535-11-DD
Title of Document:	Appeal and Reconsideration Policy and Procedures
Date of Issue:	May 31, 1996
Effective Date:	May 31, 1996
Last Review Date:	April 1, 2009 **(REVISED)**
Date of Last Revision:	April 1, 2009
Applicability:	DDSN Divisions of Mental Retardation, Autism, and Head and Spinal Cord Injury; DDSN Regional Centers; DSN Boards and Contracted Provider Agencies

---

INTRODUCTION

This directive establishes policies and procedures for appeals and reconsiderations of decisions concerning eligibility for and services provided by the South Carolina Department of Disabilities and Special Needs (DDSN), Disabilities and Special Needs Boards, and Contracted Provider Agencies. Authority for this procedure is set forth in S.C. Code Annotated § 44-26-80, (Supp. 2008) relating to the rights of people receiving services from DDSN.

POLICY

It is the policy of DDSN that each applicant or service recipient has the right appeal or request reconsideration of adverse decisions made by DDSN, Disabilities and Special Needs Boards, or Contract Provider Agencies. Each DDSN Division, Regional Center, DSN Board, and Contract Provider Agency shall ensure that all concerns of applicants and service recipients are handled appropriately and in a timely manner.

Areas that may be appealed or reconsidered include but are not limited to:

1. Eligibility for DDSN services
2. Determination of ICF/MR Level of Care
3. Re-evaluation of Nursing Facility Level of Care

4. Other decisions:
    - Denial of the Home and Community-Based Waiver (HCB) service provider of choice
    - HCB Waiver waiting list placement.
    - The denial, suspension, reduction or termination of a Medicaid funded service
    - The calculation of room and board

DEFINITIONS

Applicant:

a. one who has contacted the Disabilities and Special Needs Board in his/her county of residence to seek a determination of eligibility for SCDDSN services or by proxy, contact was made by the applicant's legal guardian;
b. one who has contacted the Disabilities and Special Needs Board in his/her county of residence to seek enrollment or one for whom enrollment is sought by a legal guardian in one of the Home and Community-Based Waivers operated by DDSN;
c. one who has contacted the Disabilities and Special Needs Board in his/her county of residence to seek a determination of ICF/MR Level of Care or one for whom a determination is sought by a legal guardian.

Service Recipient:

a. one who has been determined by DDSN to meet the criteria for eligibility for services, or his/her legal guardian;
b. one who is enrolled in a Home and Community-Based Waiver operated by DDSN or by proxy, his/her legal guardian.

Representative:

a. One, who with the consent of an individual who is not adjudicated incompetent, assists the applicant or service recipient;
b. One, who with the consent of an individual's legal guardian, assists the applicant or service recipient.

Appeal: a procedure by which a party dissatisfied with a decision, determination or ruling may refer the matter to a higher authority for review.

Reconsideration: adverse decisions regarding Medicaid funded services made by DDSN or through its network of service providers must first be reconsidered by DDSN before seeking an appeal from the South Carolina Department of Health and Human Services (SCDHHS), the Medicaid agency.

APPEAL PROCEDURES FOR APPLICANTS SEEKING ELIGIBILITY FOR DDSN SERVICES

Step 1: Appeal in Writing:

When an appeal is desired by the applicant or his/her representative, a signed and dated written appeal of an eligibility denial must be made within thirty (30) calendar days of the eligibility decision. The appeal must be made by the applicant/representative and must state the reason for believing that the denial of eligibility was in error. The "Appeal

or Request for Reconsideration" form (Attachment 1) may be used, but is not required, to document the appeal of the decision. This written appeal must be given to the Service Coordination/Early Intervention (SC/EI) provider. If an oral request for appeal is made by the applicant to the SC/EI provider and the applicant requires assistance, the SC/EI provider must assist the applicant in writing the appeal.

The written appeal of a determination of ineligibility will be forwarded by the SC/EI provider to the Director of the Consumer Assessment Team within five (5) business days of receipt from the applicant/representative. All pertinent documents upon which the eligibility denial was based will be reviewed.

Step 2: Review of Decision:

If new or additional information is provided, which was not part of the original eligibility determination documents, the appeal will be considered a re-evaluation. Should new testing or assessment be indicated, such testing or assessment will be conducted by persons not conducting the previous testing or assessment.

If no new or additional information is provided, or in the case of re-evaluation, a subsequent determination of ineligibility is challenged, the appeal will be forwarded to the Associate State Director for Policy, who will review the decision with input from the Consumer Assessment Team and appropriate Division Directors. The Associate State Director will review the case with the State Director, who has final authority over applicant eligibility in accordance with SC Code Annotated §44-20-430 (Supp. 2008).

Step 3: Decision Rendered:

When new or additional information is provided, a subsequent eligibility decision will be rendered by the Consumer Assessment Team within thirty (30) days of receipt of the appeal or receipt of new testing/assessment results, whichever is later, and communicated to the applicant via the SC/EI provider**.**

When no new or additional information is provided, a written decision will be rendered within thirty (30) days of receipt of appeal by the Consumer Assessment Team and communicated to the applicant in writing.

RECONSIDERATION PROCEDURES FOR ICF/MR LEVEL OF CARE DECISIONS

An adverse decision regarding an initial determination or an annual re-determination of ICF/MR Level of Care made by or upheld by the Consumer Assessment Team may be reconsidered if relevant information not previously considered is available. Requests for reconsideration must be made in writing by the applicant/representative within 30 calendar days of the adverse decision. The "Appeal or Request for Reconsideration" form (Attachment 1) may be used, but is not required, to request reconsideration. **There is no appeal or reconsideration within SCDDSN for the denial of ICF/MR level of care for a TEFRA Medicaid applicant. This level of care determination is part of a Medicaid eligibility process through South Carolina Department of Health and Human Services (SCDHHS) and appeal procedures are set forth by that agency.**

If no new information is available, an appeal of an adverse decision may be made by the applicant to the Division of Appeals and Hearings at SCDHHS.

If new information is submitted and considered, but the determination remains unchanged by the Consumer Assessment Team, appeals may be made by the applicant to the Division of Appeals and Hearings at SCDHHS.

RECONSIDERATION AND APPEAL PROCEDURES FOR NURSING FACILITY LEVEL OF CARE RE-EVALUATIONS

An adverse decision regarding an annual re-evaluation of a nursing facility level of care by a HASCI service coordinator will automatically be reviewed by staff of SCDDSN's HASCI Division before expiration of the current level of care determination. The "Appeal or Request for Reconsideration" form (Attachment 1) may be used, but is not required, to request reconsideration. If the adverse decision is upheld by HASCI Division staff, an appeal may be made by the applicant to the Division of Appeals and Hearings at SCDHHS.

RECONSIDERATION/APPEAL PROCEDURES FOR OTHER DECISIONS

A request for appeal or reconsideration of an adverse decision regarding services must be sent in writing to the State Director at SCDDSN, P. O. Box 4706, Columbia, SC 29240. A formal request for a reconsideration/appeal must be made in writing within thirty (30) calendar days of receipt of notification of the adverse decision. A copy of the written notification of the adverse decision must be submitted along with the basis of the complaint and the relief sought. The appeal or reconsideration request must be dated and signed by the service recipient/representative. If necessary, staff will assist with the filing of a written appeal or reconsideration. The "Appeal or Request for Reconsideration" form (attachment 1) may be used, but is not required, to request reconsideration of an adverse decision.

Kathi K. Lacy, Ph.D. Associated State Director, Policy (Originator)	Eugene A. Laurent, Ph.D. Interim Director (Approved)

To access the following attachment please see the agency website page "Attachments to Directives" under this directive number.

For the related policies, please view the indicated policy on the "Current DDSN Directives" page.

ATTACHMENT 1: Appeal or Request for Reconsideration Form
RELATED POLICIES: 535-08-DD; 700-02-DD